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In re Application of :
Eric McFarland et al :
Application No. 08/941,170 : ON PETITION
Filed: September 30, 1997 :
Attorney Docket No. 65304-020 :

This is a decision on the petition filed January 18, 2000, which is being treated solely as a petition under 37 CFR 1.181 to review the record and confirm that the CPA filed on December 14, 1999 was timely filed.

The petition under 37 CFR 1.181 is granted.

A review of the file record discloses that a final Office action was mailed on June 24, 1999, setting a three month shortened statutory period for filing a reply. Extensions of time under 37 CFR 1.136(a) were available up to and including December 24, 1999. On December 14, 1999, petitioner filed a request for a CPA but had not explicitly requested a three month extension of time, although the CPA request contained an authorization to charge all required fees under 37 CFR 1.16, 1.17 and 1.18 to Deposit Account No. 50-0496.

Paragraph (a)(3) of 37 CFR 1.136(a) treats a general authorization to charge all required fees or fees under 37 CFR 1.17 as a constructive petition for an extension of time for a concurrent or future reply requiring an extension of time. Accordingly, in view of the authorization contained in the CPA request to charge all fees required, the CPA filed on December 14, 1999 was timely filed. It is noted that the three month extension of time fee was not charged at the time of charging the

CPA filing fees. Accordingly, the \$435 extension of time fee will now be charged as of the date of filing the CPA. The \$435 extension of time fee charged on the date of filing the instant petition will be refunded to petitioner's deposit account.

A petition under 37 CFR 1.181 does not require a fee. Accordingly, the \$130 fee assessed to the instant petition will likewise be refunded to petitioner's deposit account.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the above address of record.

This application is being returned to Technology Center AU 1618 for appropriate action in due course.



Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

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